



Appendix 2

Development Plan Guidelines & Section 28 Compliance

Development Plans – Guidelines for Planning Authorities were published by DEHLG in 2007. The guidelines are designed to assist the process of preparing and implementing development plans, and outline best practice on a number of issues. They also provide advice on the structure and presentation of development plans in terms of policy statements, objectives, maps and supporting information. Regard should be had to the advice in the Guidelines when preparing policies and objectives in the development plan.

The aim of the guidelines is to:

- Improve the quality and consistency of development plans, and thereby improve the quality and consistency of decisions on planning applications.
- Strengthen the strategic content of development plans, in the context of the hierarchy of plans envisaged under the 2000 Act, and
- Encourage consensus building in the preparation, implementation and review of development plans.

The Guidelines state that Development Plans should:

- Create a clear strategic framework for the proper planning and sustainable development of the area over the duration of the plan, consistent with longer- term planning and sustainable development aims, including those set out in the National Spatial Strategy and any Regional Planning Guidelines in force.
- Set out an over-arching vision for the development of the area to which the plan relates.
- Give spatial expression to the economic, social and cultural aims of the County Development Strategy.
- Be grounded in public and political consensus around the plan's strategic framework.
- Provide a clear framework for public and private sector investment in infrastructure and in development in the area, having regard to both national and regional plans and policies.
- Protect and enhance the amenities of the area.
- Offer clear guidance to developers in framing development proposals and to the planning authority in assessing such proposals.
- Establish a policy framework within which more detailed plans (such as local area plans or plans for architectural conservation areas) can be drawn up for specific parts of the planning authority's area.
- Be capable of implementation and monitoring.

Development Plans – draft Guidelines for Planning Authorities were published by DoHLGH in 2021. These draft guidelines are designed to assist the process of preparing and implementing development plans and outline best practice on a number of issues which are evidence based. The new county development plan now operates in a changing policy, institutional and regulatory framework which reflects the continually evolving nature of public administration and governance, the planning system and society in Ireland.




Section 28 Compliance

Legislative Requirements






Section 28(1) of the Planning and Development Act 2000 (as amended) allows Guidelines to be issued by the Minister to planning authorities regarding any of their functions under the Act and specifies planning authorities shall have regard to those Guidelines in the performance of their functions. Under Sections 28(1A) (b) and 28(1B) of the Act 2010 (as amended) a planning authority is required to append a statement to the Development Plan to include information which demonstrates:








- (a) how the planning authority has implemented the relevant policies and objectives of the Minister contained in the Guidelines when considering their application to the area or part of the area of the draft development plan and the development plan, or
- (b) if applicable, that the planning authority has formed the opinion that it is not possible, because of the nature and characteristics of the area or part of the area of the development plan, to implement certain policies and objectives of the Minister contained in the Guidelines when considering the application of those policies in the area or part of the area of the draft development plan or the development plan and shall give reasons for the forming of the opinion and why the relevant policies and objectives of the Minister have not been so implemented. In addition, Section 28(1C) of the Act includes a provision that Guidelines made under Section 28(1) may contain Specific Planning Policy Requirements (SPPRs) with which planning authorities, regional assemblies and the Board shall have regard to in the performance of their functions.

Section 28 Guidelines		Statement
Environment 	Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (2009)	These guidelines have been implemented in preparation of this Plan and are reflected in the relevant policies and objectives of this plan. A Habitats Directive Natura Impact Report is included as Appendix 2, Volume 5. Mitigation measures from the AA process have been incorporated into the plan as appropriate throughout.
Heritage 	Architectural Heritage Protection - Guidelines for Planning Authorities (2011)	Policies and objectives contained within this Plan have had regard to various legislative provisions and policy guidance documents, including the Planning & Development Acts 2000 as amended, Architectural Heritage Protection – Guidelines for Planning Authorities 2011. There is specific reference made to these guidelines in Chapter 8 ‘The Gaeltacht, Culture and Heritage’ and specifically section 8.4 ‘Built Architectural Heritage’. These guidelines have been implemented in the identification of structures for the inclusion in the Record of Protected Structures.
Heritage 	Architectural Heritage Protection for Places of Public Worship - Guidelines for Planning Authorities (2003)	There are a number of places of worship recorded for protection in the Record of Protected Structures. These are identified in Volume 3 and policy guidance is provided in Chapter 8.










Section 28 Guidelines		Statement
Design 	Best Practice Urban Design Manual Part 1& 2 (2009)	These guidelines are referred to within the plan and the relevant policies and objectives implemented in Volume 1: Chapters 3, 4, 5 & 6, Volume 6: Development Management Standards and Volume 6: Housing Strategy.
Design 	Childcare Facilities Guidelines (June 2001)	Policies have been included in this plan which have regard to the recommendations and requirements of the Childcare Facilities: Guidelines for Planning Authorities 2001. Chapter 6: Sustainable Communities, specifically Section 6.3.6 deals with the issue of Childcare. It is further addressed in the Development Management Standards part of Volume 6.
Design 	Design Manual for Urban Roads and Streets DMURS, 2019.	Chapters 14, Connectivity and the Development Management Standards address these Guidelines which set out provision of practical design measures to encourage more sustainable travel patterns in urban areas and best practice in the design of street networks and individual streets.
Environment 	Development Management - Planning Guidelines for Planning Authorities (2007)	Volume 6 of the CDP sets out the development management standards that will be used to assess and determine planning applications. The Development Management Standards chapter has been prepared having considered the Development Management Guidelines.
Development Plans 	Development Plans – Planning Guidelines for Planning Authorities (June 2007) & Development Plans-Guidelines for Planning Authorities, Draft, August 2021.	The Development Plan Guidelines for Planning Authorities have informed the preparation and content of this Development Plan and are specifically referred to in Chapter 1. The Core and Settlement Strategies identify a detailed settlement hierarchy for the County, which has been informed by the National Planning Framework (NPF) and Regional Planning Policy -Regional Spatial and Economic Strategy (RSES).
Environment	Environmental Protection Agency’s 2021 Code of	Chapter 13, Water and Wastewater Management and The Development







Section 28 Guidelines		Statement
	<p>Practice for Domestic Wastewater Treatment systems.</p> <p>Implementing Regional Planning Guidelines - Best Practice Guidelines (2010).</p>	<p>Management, Standards had regard to the EPA Code of Practice and Best Practice Guidelines.</p>
<p>Housing</p> 	<p>Housing Options for Our Ageing Population Policy Statement (Department of Health, 2019).</p>	<p>Chapter 6, Sustainable Communities and the Development Management Standards Chapter had regard to the policies and objectives set out in this policy statement.</p>
<p>Housing</p> 	<p>Housing Supply Target Methodology for Development Planning (2020)</p>	<p>Chapter 3, the Core and Settlement Strategy had regard to these guidelines. The Core Strategy of this Plan reflects the methodology set out in these Guidelines.</p>
<p>Development Plans</p> 	<p>Implementing Regional Planning Guidelines – Best Practice Guidance (2010)</p>	<p>Chapter 3 Core and Settlement Strategy sets out the policy objectives to ensure that the Core Strategy requirements of the Plan are consistent with national and regional policy (National Planning Framework 2018, Regional Spatial and Economic Strategy for the Southern Region) as required by the 2010 Guidance document (which refers to the former national and regional strategy)</p>
<p>Environment</p> 	<p>Implementation of SEA Directive (2001/42/EC) Assessment of the Effects of Certain plans and Projects on the Environment - Guidelines for Regional Authorities Planning Authorities (2004)</p>	<p>Strategic Environmental Assessment was carried out as part of the plan process and is included as Appendix 1, in Volume 5.</p> <p>The SEA was carried out as an iterative process throughout the preparation of the Draft plan. The results from the SEA process including mitigation measures from the SEA were fully considered and integrated into the preparation and making of the County Development Plan.</p>
<p>Energy</p>	<p>Interim Guidelines for Planning Authorities on Statutory Plans, Renewable</p>	<p>Chapter 12, Energy has had regard for these Interim guidelines in the preparation of this plan.</p>








Section 28 Guidelines		Statement
	Energy and Climate Change DHPCLG (2017)	
Environment 	Landscape and Landscape Assessment - Guidelines for Planning Authorities (2000)	The policies and objectives contained in the guidelines are implemented in Volume 1 Chapter 11, Environment and Appendix 7: Landscape Review.
Unfinished Estates 	Managing and Resolving Unfinished Housing Developments, Guidance Manual (DoECLG 2011).	The Housing Strategy and Development Management Standards had regard to the Guidance Manual.
Environment 	National Landscape Strategy for Ireland 2015-2025	Chapter 11 Environment and the Landscape Review has taken cognisance of the National Landscape Strategy for Ireland 2015-2025 which recognises the importance of landscape protection and its interconnectivity with biodiversity and climate change.
Housing 	Part V of the Planning and Development Act 2000 – Guidelines DHPCLG (2017)	Chapter 6, Sustainable Communities implement the relevant policies and objectives in respect of these guidelines and they are also referred to in the Development Management Chapter.
Design 	Quality Housing for Sustainable Communities- Design Guidelines (2007)	The Housing Strategy and Development Management Standards had regard to the Design Guidelines.
Retail 	Retail Planning Guidelines for Planning Authorities and Retail Design Manual – A Good Practice Guide (2012)	Chapter 4, Towns & Villages refers to the Guidelines and contains the policy objectives pertaining to retail.



Section 28 Guidelines		Statement
<p>Quarries</p> 	<p>Section 261A of the Planning & Development Act 2000 Guidelines (2012).</p> <p>Quarries and Ancillary Activities-Guidelines for Planning Authorities (2004)</p>	<p>The role and impact of quarries has been considered and incorporated into the development plan in accordance with the Guidelines. The policies and objectives contained in the guidelines are implemented in Chapter 9: Economic Development, Section 9.7.6.2 and Section 1.16 of the Development Management Standards.</p>
<p>Roads</p> 	<p>Spatial Planning and National Roads - Guidelines for Planning Authorities (2012)</p>	<p>Chapter 14, Connectivity, specifically Section 14.4.1.1, Access onto National Roads and objectives KCDP 14-27, KCDP 14-28 and KCDP 14-29 sets out the Council’s intention to comply with these guidelines.</p>
<p>Design</p> 	<p>Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities & Best Practice Urban Design Manual (2008)</p>	<p>These Guidelines have been considered and implemented in the context of Chapter 3, Core and Settlement Strategy, Chapter 4, Towns & Villages and Chapter 6, Sustainable Communities in addition to the Development Management Standards set out in Volume 6 to encourage the provision of high-quality design and density in the settlement areas of the county in accordance with the Guidelines.</p>
<p>Design (Rural)</p> 	<p>Sustainable Rural Housing - Guidelines for Planning Authorities (2005) & Rural Housing Policies and Local Need Criteria in Development Plans - Circular Letter SP/5/08</p> <p>Circular PL 2/2017 - Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans</p>	<p>The plan sets out the Rural Settlement Strategy. It identifies Rural Area Types in Chapter 5. The Plan sets out a policy framework for each of these areas identified aiming to focus rural housing development on the needs of rural communities. The policies and objectives in these Guidelines have been implemented throughout the Chapter.</p> <p>The Kerry Rural Design Guidelines set out guidance to potential applicants on the design and siting of houses in rural areas.</p>
<p>Design</p>	<p>Sustainable Urban Housing, Design Standards for New Apartments 2020.</p>	<p>The Development Management Standards state that all apartment developments should comply with these design standards. It specifies that design statements for apartment developments</p>



Section 28 Guidelines		Statement
		are required to include details of compliance with the standards set out in the Guidelines. The requirement to adhere to the Specific Planning Policy Requirement (SPPR) is also set out in the Development Management Standards Chapter.
Telecommunications 	Telecommunications Antennae & Support Structures (DoECLG,1996) & Circular letter PL 07/12	The policies and objectives contained in the guidelines and Circular Letter PL 07/12 are implemented in Chapter 14: Connectivity, Section 14.9.1 and Section 1.14 of the Development Management Standards.
Flood Management Risk 	The Planning System and Flood Risk Management - Guidelines for Planning Authorities & The Planning System and Flood Risk Management - Technical Appendices (2009)	Chapter 11, 'Environment' makes detailed reference to these Guidelines in section 11.5 and in objectives KCDP 11-59 – KCDP 11-67, which implement the relevant policies and objectives. A Strategic Flood Risk Assessment (SFRA) has been carried out for County Kerry and is contained in within Volume 5, appendix 3 of the Plan. The SFRA has identified areas at risk of flooding. Policies and objectives in relation to flood risk management are included in the Plan.
Tree Preservation 	Tree Preservation Guidelines	These guidelines have been considered and complied with throughout the plan making process.
Design 	Urban Development and building heights (2018) Guidelines for Planning Authorities	These guidelines are referred to within the plan and implemented in Volume 1: Chapters 3 & 4 and Volume 6: Development Management Standards and Housing Strategy.
Energy	Draft revised Wind Energy Development Guidelines (2019) Wind Energy - Guidelines for Planning Authorities (2006)	The renewable energy policies and objectives set out in Section 12.5, Renewable Energy, Chapter 12 - Energy, Development Management Standards have been prepared having regard to the guidelines.




Section 28 Guidelines		Statement
		<p>The policies and objectives for renewable energy set out in this Draft Plan for the sustainable development of wind energy, has been influenced by the wind zoning methodology assessment carried out which is set out under Volume 1, Appendix 6.</p>

Table 2.1: Implementation of the Ministerial Guidelines in the Draft Kerry County Development Plan 2022-2028.



Specific Planning Policy Requirements (SPPRs)

Urban Development and Building Heights Guidelines for Planning Authority 2018		Implementation in the Draft Kerry County Development Plan 2022-2028
SPPR 1	Support increased building height and density in locations with good public transport accessibility, particularly town cores...	The Plan recognises the need to support increased building height and densities in appropriate locations in town centres. Within Chapter 4 [at 4.3 & 4.4] of Volume 1 illustrates how this Development Plan has complied with these Guidelines and SPPR 1.
SPPR 2	Planning authorities shall ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided	In addition to the provisions set out above, the land use strategy for settlements set out in Volume 2 of this Plan supports a mix of land uses in urban areas. In addition, regeneration areas have been identified across the settlement network to support the development of key sites in urban areas to facilitate a mix of uses, densities and building heights.
SPPR 3	Planning authorities may approve proposed developments even where specific objectives of the development plan may indicate otherwise.	Section 1.4 of Volume 6 allows the council to have flexibility in the application of development standards where performance-based criteria are appropriate. At a project level, compliance with SPPR 3 will be achieved through the Development Management Process
SPPR 4	Planning authorities must ensure that the future development of greenfield or edge of town locations for housing purposes contain appropriate density and housing mix.	The Plan’s approach to density, building heights and typologies is set out in Volume One, Chapters 3, 4 & 7 and this approach complies with SPPR 4. At a project level, compliance with this SPPR will be achieved through the Development Management process.
Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018		Implementation in the Draft Kerry County Development Plan 2022-2028
SPPR 1	Planning Authorities should ensure a mix of apartment sizes. Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.	As referenced above, the Plan supports the delivery of a range of house/ unit types and sizes across the settlement network and does not include any provision that would conflict with this SPPR. At a project level, compliance with this SPPR will be achieved through the Development Management process.
SPPR 2	Planning authorities should ensure that all building refurbishment schemes (of various sizes) on sites of	As outlined above, the provisions of Chapter 3, 4 & 7 of the Plan supports the delivery of a range of house/ unit types and sizes and densities across the settlement network and does not include any provision that would conflict with this SPPR. At a



	any size, or urban infill schemes on sites of up to 0.25ha shall contain a mix of studio/apartment.	project level, compliance with this SPPR will be achieved through the Development Management Process.
SPPR 3	Minimum Apartment Floor Areas for studio/1-,2- & 3-bedroom apartments.	The Plan supports the delivery of a range of house/ unit types and sizes and densities across the settlement network and does not include any provision that would conflict with this SPPR. At a project level, compliance with this SPPR will be achieved through the Development Management Process
SPPR 4	Related to the minimum number of dual aspect apartments	The Plan supports the delivery of a range of house/ unit types and sizes and densities across the settlement network and does not include any provision that would conflict with this SPPR. At a project level, compliance with this SPPR will be achieved through the Development Management Process.
SPPR 5 & 6	Ground level apartment floor to ceiling heights shall be a minimum of 2.7m and shall be increased in certain circumstances A maximum of 12 apartments per floor per core may be provided in apartment schemes.	At a project level, compliance with this SPPR will be achieved through the Development Management Process.
SPPR 7 & 8	Relate to 'Build-To-Rent' housing developments	Compliance with this SPPR will be achieved through the Development Management Process. The Plan supports the delivery of a range of house/ unit types and sizes and densities across the settlement network. The plan supports the preparation of Transport Mobility Plans for towns which encourage a modal shift in favour of the sustainable modes
Draft Revised Wind Energy Guidelines 2019		Implementation in the Draft Kerry County Development Plan 2022-2028
SPPR 1	Ensure that overall national policy on renewable energy as contained in documents such as the Government's 'National Energy and Climate Plan 2021-2030', and the 'Climate Action Plan 2019', is acknowledged and documented. Indicate how the implementation of the development plan will contribute to realising overall national targets on renewable energy and climate change mitigation.	Chapter 12 Energy and Appendix 6 Wind Zoning Methodology, contained within Volume 1, outline the overall policy and national renewable energy targets and the methodology behind the wind zoning designations.
SPPR 2	Ensure that a setback distance for visual amenity purposes of 4 times the tip height of the relevant	This plan does not include any provision that would conflict with this SPPR.



	<p>wind turbine shall apply between each wind turbine and the nearest point of the curtilage of any residential property in the vicinity of the proposed development. Some discretion applies to planning authorities when agreeing separation distances for small scale wind energy developments generating energy primarily for onsite usage.</p>	<p>Compliance with this SPPR will be achieved through the Development Management Process.</p>
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